The Voluntaryist

Whole Number 136 *"If one takes care of the means, the end will take care of itself."* **1st Quarter 2008**

Introduction To The Lysander Spooner Reader

By George H. Smith

I.

Somewhere, sometime a person will open this book not knowing what to expect, but curious about a man with the curious name of Lysander Spooner. I envy that reader, for that was me nearly twenty-five years ago when I encountered *No Treason: The Constitution of No Authority.* I could scarcely believe my eyes. Here were ideas radical yet commonsensical, subversive yet quintessentially American. Spooner challenged and excited me. Such experiences are rare because truly original thinkers are rare, and you can discover them but once.

Alas, my days of innocent discovery are over, the casualty of too much reading. I have read libertarian writers so obscure that even obscure libertarians have never heard of them. I doubt if my future holds many surprises, but it does hold many pleasures. This is one of them: introducing others to Lysander Spooner.

Lysander Spooner (1808-1887) was one of the greatest libertarian theorists of the nineteenth (or any other) century and a founding father of the modern movement. He was radical to the bone, a nonconformist among nonconformists who refused to toe any party line.

Trained as a lawyer, Spooner often wrote like a lawyer, citing precedents, statutes, and legal authorities. This legalistic style enshrouds some of his works with a dry, forbidding appearance. But huddled among his legal arguments are passages of literary and philosophic brilliance.

Spooner was no ordinary lawyer. He cited the Constitution when he believed it conformed with natural law; this led him to assert the unconstitutionality of chartered banks, a monopolistic post office, legal tender laws, slavery, and other offenses against liberty. In the final analysis, however, Spooner condemned the Constitution as possessing "no authority," and this distinguished him from many radicals of his day. He espoused individualist- anarchism (in substance if not in name), a radical no-government philosophy with roots deep in American history—Native American Anarchism, as Eunice Schuster has called it.[1]

For Spooner, natural law and its corollary, natural rights, are the foundation of a free and just society. He was an unterrified Jeffersonian who refused to compromise the principles expressed in the Declaration of Independence. If man is endowed with inalienable rights, then no one, including government, should violate them. If government requires the consent of the governed, then a legitimate government must acquire the *explicit* consent of every person in its jurisdiction. If the people have a right to resist usurpations and the right to overthrow tyrannical governments, then these rights may be enforced against the American government.

If such principles make it difficult for governments to function, then, as Spooner saw the matter, so much the better. Government is a standing threat to liberty, peace, prosperity, and social order.

Spooner's contempt for government was rivaled only by his contempt for fellow libertarians who compromised their principles under cover of expediency. Pure justice is a thing of beauty, and Spooner could not abide those who knowingly defaced it. Where others saw expediency, Spooner saw only cowardice or betrayal or ambition masquerading as practicality.

II.

Lysander Spooner, the second of nine children, was born in 1808 on a farm near Athol, Massachusetts. Spooner discharged his financial obligations to his father by working on a farm for nine years; then, at age twenty-five, he moved to nearby Worcester to prepare for a career in law.[2]

In 1835, Spooner set up his own legal practice, thereby violating a Massachusetts law that required a five year apprenticeship for prospective lawyers without college degrees. In his first political tract (appearing in the *Worcester Republican*), Spooner protested the apprenticeship law and expressed a disdain for governmental intervention that would characterize his entire career.

According to Spooner, the five-year apprenticeship law was meant to exclude "the well-educated poor" from the legal profession and shield those "educated in comparative ease and plenty" (many of whom "are unfit for the profession") from the effects of competition. Spooner continues:

> The truth is that legislatures and Courts have made lawyers a privileged class, and have thus given them facilities, of which they have availed themselves, for entering into combinations hostile, at least to the interests, if not to the rights, of the community—such as to keep up prices, and shut out competitors.[3]

continued on page 2

The Voluntaryist

Editor: Carl Watner

Subscription Information

Published quarterly by The Voluntaryists, P.O. Box 275, Gramling, SC 29348. A six-issue subscription is $20 or .07 ounce of fine gold. For overseas postage, please add $5 or 1/3 of the regular subscription price. Single back issues are $4 each or 1/5 of the regular subscription price. Please check the number on your mailing label to see when you should renew. THE VOLUNTARYIST is online at www.voluntaryist.com.

Letter to the Editor

"Grant No Man the Authority to Make You His Slave" by Peter Ragnar (Whole Number 127) was very interesting: "When asked how one could be a free man and yet a slave, the ancient Athenian slave, Diogenes, answered, 'Simply, by the number of times you say master.'"

To put it in modern terms, you say "master" every time you

1) go to the store and pay the sales tax after you buy food, fuel, or supplies;
2) carry a Driver's License;
3) use or refer to your Social Security number (like when you open a bank account or receive a paycheck from your employer with Social Security deductions);
4) drive a car with a license plate issue by your master;
5) flush the toilet and accept the master's processing of your wastes;
6) use electricity that is provided by a master's-owned generating plant;
7) take medicine that has been approved by the master (FDA);
8) send your children to a state-run kindergarten/school/university;
9) send a letter via the United States Postal Service;
10) use the "licensed" services of a physician, real-estate agent, broadcaster, telephone, insurance agent, day-care, or taxi;
11) when you tender or accept Federal Reserve notes issued by the master.

This is the short list, of course, I hope our author, Peter Ragnar, would tell us how Diogenes would reply to his masters if he were in our situation.

—Anonymous V

Lysander Spooner Reader

continued from page 1

A person who wishes to be a lawyer has as much right to earn his living by this means as by any other. His competence should concern only "the lawyer himself and his clients"; the government cannot legislate competence, nor should it try.

A free-market legal system, Spooner contends, would break up the cliquish legal fraternity and provide better protection against malpractice. Here as elsewhere Spooner was ahead of his time:

> If the profession were thrown open to all, this combination of lawyers would doubtless be broken up—they, like other men, would hold themselves severally responsible for their own characters alone—they would have no inducement to wink at or attempt to hide the malpractices of others—individuals, who should suppose themselves injured by the practice of an attorney, instead of laying his complaints before the Bar, would lay them before the grand jury, or some other tribunal—and ... it is probable the community would sometimes fare the better for it.[4]

These remarks, written when Spooner was twenty-seven, display a bold free-market radicalism. But Spooner's libertarianism was of one piece; it was economic *and* political. In the same article quoted above, Spooner protests the requirement that lawyers must swear allegiance to the Commonwealth and the Constitution. His remarks are as charming as they are incisive.

> The right of rebelling against what I may think a bad government, is as much my right as it is of the other citizens of the Commonwealth, and there is no reason why lawyers should be singled out and deprived of this right. [I]t is nothing but tyranny to require of me an oath to support the constitution, as a condition of my being allowed the ordinary privilege for getting my living in the way I choose.[5]

Massachusetts law required a lawyer to inform the court if he knew of "an intention to commit a falsehood." Again, Spooner cuts to the heart of the matter:

> I do not choose to be made an informer in this manner, against men with whose matters I have nothing to do. That is not what a lawyer goes into Court for—he goes there to defend the rights and interests of his clients, and for nothing else—and he has a right so to do... .[6]

Scarcely any statute relating to the legal profession escaped Spooner's censorious gaze. For example, lawyers were required to contribute fifty dollars to the Law Library Association. Spooner was outraged. If he needed to use the law library, he was willing to pay for it—but what if a lawyer lived too far away to make use of it, or what if a lawyer owned his own books? Unless Spooner joined the Association or used its books, that organization had no more claim to his fifty dollars than "The Missionary or Bible Society."

In 1836 Spooner left Worcester for the Ohio country to seek his fortune in land speculation, just in time to lose everything during the Panic of 1837. Spooner blamed the economic collapse on governmental regulation of banking and currency. In *A New System of Paper Currency* and other tracts, Spooner tried to show, in considerable detail, how a totally unregulated currency and banking system would

work in a free market.[7]

In 1844, Spooner turned his attention to the government's monopoly on mail delivery. He established the American Letter Mail Company, a private postal service that drastically undercut the government's rate. Spooner defended his illegal action in a spirited pamphlet, *The Unconstitutionality of the Laws of Congress Prohibiting Private Mails.*

The Constitution (Art. 1, Sec. 8) declares that "The Congress shall have power to establish post-offices and post roads;" however, according to Spooner, this does not justify a government *monopoly* on mail delivery. Indeed, government agencies are typically concerned more with feathering their own nests than with providing efficient services. Quoting Spooner:

> Universal experience attests that government establishments cannot keep pace with private enterprise in matters of business (and the transmission of letters is a mere matter of business). Private enterprise has always the most active physical powers, and the most ingenious mental ones. It is constantly increasing its speed, and simplifying and cheapening its operations. But government functionaries, secure in the enjoyment of warm nests, large salaries, official honors and power, and presidential smiles—all of which they are sure of so long as they are the partisans of the President—feel few quickening impulses to labor, and are altogether too independent and dignified personages to move at the speed that commercial interests require. They take office to enjoy its honors and emoluments, not to get their living by the sweat of their brows. They are too well satisfied with their own conditions, to trouble their heads with plans for improving the accustomed modes of doing the business of their departments—too wise in their own estimation, or too jealous of their assumed superiority, to adopt the suggestions of others—too cowardly to innovate—and too selfish to part with any of their power, or reform the abuses on which they thrive. The consequence is, as we now see, that when a cumbrous, clumsy, expensive and dilatory government system is once established, it is nearly impossible to modify or materially improve it. Opening the business to rivalry and free competition, is the only way to get rid of the nuisance.[8]

III.

Spooner noted that his entire family had been "ardent abolitionists for years," and in 1845 he entered the fray with *The Unconstitutionality of Slavery.* This piece was warmly received by political abolitionists who, unlike William Lloyd Garrison and his allies, urged anti-slavery activists to vote and run for political office.

The esteem shown for Spooner by political abolitionists is reflected in this resolution passed by the Liberty party in 1849:

> *Whereas,* Lysander Spooner, of Massachusetts, that man of honest heart and acute and profound intellect, has published a perfectly conclusive legal argument against the constitutionality of slavery;
>
> *Resolved,* therefore, that we warmly recommend to the friends of of freedom, in this and other States, to supply, within the coming six months, each lawyer in their respective counties with a copy of said argument.[9]

Spooner's role in abolitionism can be understood only by placing him in the broader context of the controversies that divided that volatile and fascinating movement.[10]

The dominant figure in abolitionism was William Lloyd Garrison, editor of *The Liberator.* Garrison firmly believed that the Constitution sanctions slavery, even though the words "slave" and "slavery" never appear in the document. Garrison's position was strengthened in 1840, when James Madison's record of the Constitutional Convention was published for the first time.[11]

Much that transpired during the Constitutional Convention remained hidden from Americans for fifty years, thereby permitting delegates to escape accountability through death. Madison's detailed notes—suitably altered so as to understate his youthful nationalism—left no doubt about the place of slavery in the Constitution. It was sanctioned and protected as a means to bring the deep South into the union. This was especially apparent in three clauses: the provision that "all other persons" were to be counted as three-fifths when computing representation in the House (Art. I, sec. 2); the provision that Congress could not outlaw the slave trade until 1808 (Art. I, sec. 9); and the provision that required states to return runaway slaves to their masters (Art. IV, sec. 2).

Garrison's position was clearly and colorfully stated in 1854, when abolitionists convened in Framingham, Massachusetts to protest the return of an escaped slave, Anthony Burns. During his speech, Garrison held up a copy of the Constitution and condemned it as "a covenant with death and an agreement from hell." Then Garrison burned a copy of the Constitution while declaring, "So perish all compromises with tyranny!" Most of the audience responded with amens.[12]

Garrison's view of the Constitution led him to oppose any political activity by abolitionists. His colleague Wendell Phillips defended this position in *Can Abolitionists Vote or Take Office Under the United States Constitution?* (1845).

Phillips notes that all officials, state and federal, are required to swear an oath "to support the Constitution of the United States"—and he maintains that no abolitionist can do so in good conscience, because the Constitution is a pro-slavery document. Nor

should abolitionists vote, because voting delegates authority to an agent, and what "one does by his agent he does himself." Phillips continues:

> Of course no honest man will authorize and request another to do an act which he thinks it wrong to do himself. Every voter, therefore, is bound to see, *before voting,* whether he could himself honestly swear to support the constitution.[13]

In *The Unconstitutionality of Slavery*, Spooner sought to refute the Garrisonian critique of the Constitution and thereby open the door for political activity by abolitionists. Spooner was neither the first nor the last to try this, but his attempt was the most thorough and legally grounded. To establish the unconstitutionality of slavery, Spooner believed, was a necessary step in abolishing slavery. Even if the entire North became abolitionist, "they would still be unable to touch the chain of a single slave, so long as they should concede that slavery was constitutional." Southern lawyers were noted for their strict and literal interpretation of the Constitution, so Spooner hoped to change their minds by meeting them on their own ground. He based his case on the rules of legal interpretation expounded by Sir William Blackstone and other authorities of Common Law.

According to Spooner, law, in its most basic sense, refers to natural law—"that *natural*, universal, impartial and inflexible principle, which, under all circumstances, *necessarily* fixes, determines, defines and governs the civil rights of men." All men are endowed with equal rights to life, liberty, and property. This is "the paramount law"; indeed, strictly speaking, there can be *"no law but natural law,"* because no human enactments can overturn the provisions of natural justice. Legitimate governments must rest on consent; a social contract, and even that contract "cannot lawfully authorize government to destroy or take from men their natural rights: for natural rights are inalienable, and can no more be surrendered to government—which is but an association of individuals—than to a single individual." The only "legitimate and true object of government," is to protect natural rights. Even a majority, however large, cannot agree to a contract (a constitution) that violates "the natural rights of any person or persons whatsoever." Such a contract "is unlawful and void" and has "no moral sanction."[14]

This argument from natural law renders slavery immoral and unjust, whatever the Constitution might say. But Spooner does not base his constitutional argument on this premise. In interpreting the Constitution, he insists only that "the ordinary legal rules of interpretation." be observed. Natural right, in Spooner's argument, functions as a *presumption,* a beacon to guide legal interpretations. The most important rule is that all language in the Constitution "must be construed *'strictly'* in favor of natural right," unless there is clear and convincing evidence to the contrary. Before we can interpret constitutional provision as contrary to natural right (i.e., as upholding slavery), the terms of that provision must be "express, explicit, distinct, unequivocal, *and one to which no other meaning can be given...* . [15]

While examining the slavery clauses of the Constitution, Spooner falls back on his basic rule of interpretation. Any apparent violation of natural right must be stated explicitly and not permit another, more libertarian interpretation. For example, the fugitive slave clause refers to persons "held to service or labor." According to Spooner, this provision, if interpreted literally, refers to indentured servants, not to slaves. And so it goes with other slavery provisions of the Constitution.

Spooner was unmoved by the supposed intentions of the Constitution's framers. The only relevant legal point is what the Constitution *in fact* authorizes in express language, not what its framers *intended* it to authorize. The Constitution never mentions slaves or slavery, so by strict rules of interpretation—indeed, by the same rules that most Southerners followed—the constitution cannot be viewed as pro-slavery.

IV.

T*he Unconstitutionality* of *Slavery* was greatly admired by political abolitionists who—in opposition to William Lloyd Garrison and his followers—believed in the morality of voting and electoral politics. It is ironic, therefore, that Spooner refused to vote or join any political party, including the abolitionist Liberty party.

In a letter to his friend George Bradburn, Spooner indicated that his "theory of voting" did not allow him to support any political party, even one that was antislavery. Bradburn was annoyed. How could it be "that such notions are held by him, who wrote the 'Unconstitutionality of Slavery'"? Spooner replied:

> I do not rely upon "political machinery" (although it may, or may not, do good, according as its objects are, or are not, legal and constitutional) ... because the principle of it is wrong; for it admits ... that under a constitution, the *law* depends on the will of majorities, *for the time being*, as indicated by the acts of the legislature.[16]

Spooner could not sanction the Constitution and the government it established. Although the Constitution is "a thousand times better ... than it is generally understood to be," it is so seriously flawed that "honest men who know its true character" should not sanction it.[17] Wendell Phillips was indeed correct when he charged that "Mr. Spooner's idea is practical no-governmentalism.[18]

Thus, Spooner was neither a Garrisonian nor a political abolitionist. As Lewis Perry has observed,

Spooner "was a maverick abolitionist who belonged to none of the familiar factions in the movement."[19]

In *A Defence for Fugitive Slaves* (1850), Spooner presents an argument that he would later expand into one of his most famous works, *An Essay on the Trial By Jury* (reprinted in this volume). Americans who assisted runaway slaves were subject to prosecution under the Fugitive Slave Laws. Spooner regards these laws as unconstitutional and unjust; therefore, anyone prosecuted under them should be exonerated by the jury.

> If an indictment be found, the jury who try that indictment, are judges of the law, as well as the fact. If they think the law unconstitutional, or even have any reasonable doubt of its constitutionality, they are bound to hold the defendants justified in resisting its execution.[20]

According to Spooner, a judge represents the *government,* where as a jury represents the *people.* And the people, speaking through a jury, have a right to assess laws as well as facts. Should a jury find a law unjust or unconstitutional, it should effectively nullify that law by refusing to convict the defendant.

"What Individual Rights Mean"

In a culture where individual rights are fully respected, "if other people want to deal with someone, they have to ask, convince, and persuade that individual to lend support, to cooperate. This is one of the most civilizing forces in human society: not to permit the use of coercive force by one individual toward another, by one group of people toward others, but to insist that agreements, cooperation, and mutual effort must be reached through consent. People, instead of conquering, expropriating from, or conscripting others to gain their cooperation, must confine themselves to the use of reasoned and peaceful persuasion."

—Tibor Machan, INDIVIDUAL RIGHTS RECONSIDERED (2001), pp. xxii-xxiii

In *An Essay* on *the Trial By Jury*, Spooner presents a good deal of historical material to support his case for jury nullification. Did early American law conform to Spooner's view, as he claims? The distinguished legal historian Lawrence M. Friedman writes:

> In American legal theory, jury power was enormous, and subject to few controls. There was a maxim of law that the jury was judge both of law and of fact in criminal cases. This idea was particularly strong in the first Revolutionary generation, when memories of royal justice were fresh. In some states the rule lasted a long time, and in Maryland, the slogan was actually imbedded in the constitution. But the rule came under savage attack from some judges and other authorities... . It ... threatens the *power* of judges.[21]

V.

Jury nullification was not Spooner's only strategy to weaken slavery. He also called for armed abolitionists to infiltrate the South, liberate slaves, and foment insurrections. After attaining their freedom, slaves were to receive restitution from the property of their former owners. These and other particulars are spelled out in *A Plan for the Abolition of Slavery,* a broadside published by Spooner in the summer of 1858. This broadside apparently influenced John Brown, who tried to implement Spooner's plan in his abortive raid on Harper's Ferry, Virginia.[22]

After Brown had been captured and sentenced to hang, Spooner hatched a plan to kidnap Governor Henry Wise of Virginia and hold him as hostage in exchange for Brown. This plan went nowhere, however, owing to lack of funds.[23]

Spooner was adamant in his belief that the right forcibly to resist unjust laws is inalienable. The constant fear of an uprising by the people is the only thing that keeps rulers from becoming tyrannical. As Spooner puts it:

> The right and the physical power of the people to resist unjustice, are really the only securities that any people ever can have for their liberties. Practically no government knows any limit to its power but the endurance of the people. And our government is no exception to the rule. But that the people are stronger than the government, our representatives would do any thing but lay down their power at the end of two years. And so of the president and senate. Nothing but the strength of the people, and a knowledge that they will forcibly resist any very gross transgression of the authority granted to their representatives, deters these representatives from enriching themselves, and perpetuating their power, by plundering and enslaving the people.[24]

Spooner's dissent from orthodox abolitionism is nowhere more apparent than in *No Treason,* perhaps his greatest work (and reprinted in this volume.) Nearly every abolitionist supported the North during the Civil War. This was true even of Garrison, a professed pacifist who had previously called for free states to secede from the Union. Garrison, who viewed the Civil War as a struggle between "free men and a desperate slave oligarchy," wrote:

> All my sympathies and wishes are with the [Northern] government, because it is entirely in the right, and acting strictly in self-defense and for self-preservation. This I can say, without any compromise of my peace-principles.[25]

Spooner attacks these common beliefs in *No Treason,* where he undertakes a remarkable and devastating analysis of the Constitution and its moral authority (it had none, according to Spooner). He clearly distinguishes the evil of slavery from the right of secession—a right that was embodied in the American Revolution.

[T]he whole Revolution turned upon, asserted, and, in theory, established, the right of each and every man, at his discretion, to release himself from the support of the government under which he lived. And this principle was asserted, not as a right peculiar to themselves, or to that time, or as applicable only to the government then existing; but as a natural right of all men, at all times, and under all circumstances.[26]

"What Vountary Means"

We often use the word voluntary to identify charitable actions taken in society that do not result in profit. But consider that profit in a market economy also results from voluntary actions. They involve willing buyers and willing sellers, willing workers and willing capital owners. All "capitalist" acts result from volitional choice, a decision made by individuals to make exchange[s] based on the forecast that doing so will improve their lots in life. A better term for charitable activities, as distinct from commercial ones, would be nonpecuniary activities.

So by voluntary human energies, I really intend to sum up the whole of economic affairs insofar as they do not involve forcing people to do things they would not otherwise do. This includes activities ranging from the small scale transactions of the peasant farmer to the complex financial transactions of Wall Street. All involve individuals choosing to trade to improve [themselves] ... .

We can contrast this with government means, which always involve an element of force. Whether it is taxation, regulation, or restrictions on consumption, all government programs are designed to thwart what would otherwise be voluntary decisions.

—Rev. Robert A. Sirico, "Be Wary of Power," in The Acton Insititute's RELIGION AND LIBERTY (Winter 2006), p. 15.

Spooner stood nearly alone among radical abolitionists in his defense of the right of the South to secede from the Union. Then, as if anticipating revisionist historians, he denies that the war had been fought over slavery. Rather, the war erupted *"for a purely pecuniary consideration,* to wit, a [Northern] control of the markets in the South; in other words, the privilege of holding the slave-holders themselves in industrial and commercial subjection to the manufacturers and merchants of the North (who afterwards furnished the money for the war.)"[27] Spooner's extensive treatment of this theme is surely one of the most fascinating pieces of writing from the Civil War era.

VI.

Spooner's concern with civil liberties is manifested in *Vices Are Not Crimes* (reprinted in this volume), which originally appeared anonymously as a chapter in a book by Dio Lewis, *Prohibition: A Failure* (1875). The physician Lewis attributed the chapter to "a lawyer friend," and not until Benjamin Tucker's memoir of Spooner *(Liberty,* May 28, 1887) did the true author become known.

This is probably the only major piece not to be included in *The Collected Works of Lysander Spooner. Vices Are Not Crimes* owes its modern revival to Carl Watner, who unearthed it, and to Janice Allen, who published it (TANSTAAFL, 1977) for the first time in more than a century. Were it not for this joint labor of love, one of Spooner's finest essays might have remained buried indefinitely between the covers of an obscure book.

Vices Are Not Crimes is as fresh as the day it was written, for it speaks directly to the current persecution of drug consumers, sexual nonconformists, and others who pursue their happiness in illegal ways. Indeed, most modern tracts on personal liberty pale in comparison to Spooner's uncompromising and unapologetic defense.

According to Spooner, every mentally competent person over ten years of age—regardless of race, sex, religion, or personal proclivities—is equally possessed with natural rights, including the right to pursue happiness. A government should protect this right (assuming we take the Declaration of Independence seriously), but this is impossible if a government also tries to punish vice. A government can do one or the other but not both, any more than it can protect both liberty and slavery.

No one is morally perfect, so if a government were to punish all vices impartially, "everybody would be in prison for his or her vices," leaving "no one left outside to lock the doors upon those within." Only one possibility remains: a government might punish only select vices. But, Spooner contends, it is "utterly absurd, illogical, and tyrannical" for a group to punish the vices of others while demanding liberty for their own.

The violation of rights is the bright line by which Spooner separates vices from crimes. Crimes violate rights; vices do not. Vices may be self-destructive or offensive, but—like all peaceful, voluntary activities—they should remain outside the province of law and government. Such vices include "gluttony, drunkenness, prostitution, gambling, prize-fighting, tobacco-chewing, smoking, and snuffing, opium-eating, corset-wearing, idleness, waste of property, avarice, hypocrisy, &c., &c." If practitioners of these and other vices cannot be reformed voluntarily, if they go "on to what other men call destruction," then they "must be permitted to do so."

The essence of Spooner's argument runs deep in the individualist tradition. For example, two centuries before Spooner, John Locke had argued that a ruler should not try to stamp out sin. Why? Because sins as such "are not prejudicial to other men's rights, nor do they break the public peace of societies."

Spooner begins with rights but does not end there.

Vices Are Not Crimes contains a wealth of insightful observations about the highly contextual nature of virtue and vice. Spooner shows great respect for the unique character and circumstances of each individual, and he studiously avoids that pretentious moralizing that so often mars works of this kind. People must make decisions in their quest for happiness, and some may choose better than others. But virtue and happiness cannot flourish unless a person is free "to inquire, investigate, reason, try experiments, judge, and ascertain for himself... ." Coerced virtue is a contradiction in terms.

VII.

The Civil War extinguished 620,000 lives and transformed the political culture of America. George Ticknor, writing in 1869, commented on the "great gulf between what happened before the war in our century and what has happened since or what is likely to happen hereafter. It does not seem to me as if I were living in the country in which I was born."[28]

The language of rights, consent, and social contract-the vocabulary of Lysander Spooner—was no longer popular among Northern intellectuals, for this had been the language of treason and secession. The word "union" (which suggested a confederation of sovereign states) gave way to "nation"; and "The United States *are*" (the verb preferred by James Madison, among many others) became "The United States *is*... [29]

After the war, a speaker at William and Mary College declared: "We at the North, all learned that there was in our ... Government a power of which we never dreamed." The Unitarian minister, Henry Bellows went further: "The State is indeed divine, as being the great incarnation of a nation's rights, privileges, honor and life." According to the historian John Motley, "no individual is anything in the midst of this great revolution"; and, in the words of Walt Whitman, the war taught America that "a nation cannot be trifled with.[30]

Lysander Spooner no longer spoke the language of his countrymen, and he watched the power of government accelerate at an astonishing rate.[31] Spooner was swimming against the current of opinion, but he never gave up. His friend and colleague Benjamin Tucker gave him a fitting tribute:

> He died at one o'clock in the afternoon of Saturday, May 14 [1887], in his little room at 109 Myrtle Street, surrounded by trunks and chests bursting with the books, manuscripts, and pamphlets which he had gathered about him in his active pamphleteer's warfare over half a century long... . Some time or other the story of this glorious life of eighty years will be told in detail as it deserves.[32]

[From THE LYSANDER SPOONER READER, San Francisco: Fox & Wilkes, 1992, pp. vii-xix, Footnotes not included.] V

> The power [of coining money] itself is a frivolous one, of little or no utility; for the weighing and assaying of metals is a thing so easily done, and can be done by so many different persons, that there is certainly no *necessity* for it being done at all by a government. And it would undoubtedly have been far better if all coins - whether coined by governments or individuals - had all been made into pieces bearing simply the names of pounds, ounces, pennyweights, etc., and containing just the amounts of pure metal described by those weights. The coins would have then been regarded as only so much metal; and as having only the same value as the same amount of metal in any other form. Men would then have known exactly how much of certain metals they were buying, selling, and promising to pay. And all the jugglery, cheating, and robbery that governments have practised, and licensed individuals to practise - by coining pieces bearing the same names, but having different amounts of metal - would have been avoided.
>
> And all excuses for establishing monopolies of money, by prohibiting all other money than the coins, would also have been avoided.
>
> —Lysander Spooner, A LETTER TO GROVER CLEVELAND, Sec. XXII (1886), p. 72.

Society vs. The State

continued from page 8

often destroys the independence of the latter.

The issue of taxation involves nothing less than the human and natural right to own, use, and enjoy private property, a "civil right" of the most basic kind. Property and wealth determine personal power to control our lives, to make decisions, to raise a family, to live free.

As Albert Jay Nock noted, every additional tax imposed diminishes our freedom.

In an economic history of the Middle Ages, Paul Craig Roberts, the economist and columnist, showed that medieval serfs bound to the land and their masters rarely paid more than one-third the value of their labor in taxes. For good reason: with very low productivity, serfs could not survive if forced to pay more taxes. With nothing to lose, they would revolt and kill the tax collectors.

Yet half a millennium later, with capitalism's enormously increased productivity, we have even less right to our earnings than did those enslaved serfs. Says Roberts, "You are not free when you do not own the product of your own labor."

[From the "Preface," Robert E. Bauman, ed., FORBIDDEN KNOWLEDGE, Waterford: The Soverign Society, 5th Edition, 2004. Reprint permission dated March 6, 2006 by Shannon Crouch, The Sovereign Society, 5 Catherine Street, Waterford, Ireland. Phone 888-358-8125. Email: info@sovereignsociety.com. Web: www.sovereignsociety.com.] V

Society vs. The State

"... just as the State has no money of its own, so it has no power of its own. All the power it has society gives it, plus what it confiscates from time to time on one pretext or another; there is no other source from which State power can be drawn. Therefore every assumption of State power, whether by gift or seizure, leaves society with so much less power; there is never, nor can be, any strengthening of State power without a corresponding and equivalent depletion of social power."

—Albert Jay Nock, OUR ENEMY, THE STATE (1935), Caldwell: The Caxton Printers, 1950, Chap. 1, pp. 3-4.

"Knowledge itself is power."

—Francis Bacon, MEDITATIONES SACRAE (1597)

In the age-old struggle for individual liberty against the power of the state, there can be no question which side has triumphed throughout most of the twentieth century.

The one interest the state willingly sacrifices to the "common good" is personal liberty, the freedom to produce and create, to buy and sell, to speak and publish, to travel, to live freely. By diminishing liberty, government systematically subverts people's responsibility for their own lives. It robs those who produce in order to placate those who only consume. The result is economic stagnation, retrogression, and political corruption.

Since the seventeenth century, in England, France, and America, and more recently in Russia and Eastern Europe, revolutions against this tyranny of the state were fought on behalf of an alternative we can call "natural liberty." At first successful, over time these revolutions cooled down to complacency and hard-won freedom came to mean guaranteed entitlement to government largess.

True natural liberty means that each one of us is the sole legitimate owner of our own life and destiny, free to act as we wish so long as we use no violence, fraud, or other aggression against others. That same freedom dictates a free-market economy enjoying peaceful production and trade. It opposes government control by self-serving politicians.

No activity of statist governments has diminished personal liberty more than the unchecked power to tax. In the United States, the United Kingdom, and Germany the effective rate of personal taxes far exceeds 50 percent of earnings. In some nations, such as France and Sweden, it is higher still. Business is taxed at even greater levels. And everyone pays the ultimate price.

When government takes wealth from some and gives it to others, this forced redistribution diminishes the rights and well-being of the former, and

continued on page 7

The Voluntaryist

P.O. Box 275 • Gramling, South Carolina 29348

FIRST CLASS

Please renew your subscription if the number on your address label is within one digit of this issue's number.